IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WA.No. 2909 of 2007

AGAINST THE JUDGEMENT IN WPC.11261/2004 Dated 21/11/2007

.....

APPELLANT: PETITIONER:

K.V.MUHAMMED,
KADAVIL VALAPPIL HOUSE,
CHANGARAMANGALAM,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI (SR.)
SRIC.M.MOHAMMED IQUABAL

RESPONDENTS: RESPONDENTS:

1. TAHSILDAR,
PONNANI.

2. REVENUE DIVISIONAL OFFICER,
TIRUR.

BY SPECIAL GOVERNMENT PLEADER SRI.VINOD CHANDRAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2909 of 2007

Dated, this the 6th day of December, 2007

JUDGMENT

K.T.Sankaran,J.

The petitioner in W.P.(C) No.11261 of 2004 challenges the judgment of the learned Single Judge. Learned Single Judge has issued certain directions to safeguard the interest of the appellant and to rule out any possible grievance voiced by him.

(2). As per order dated 11-3-2002 building tax was assessed by the Tahsildar in respect of the building of the petitioner. The petitioner filed appeal against that order. The appeal was allowed and the matter was remanded to the Tahsildar for fresh disposal as per the proceedings of the Revenue Divisional Officer dated 2-9-2002. After remand, an order dated 30-9-2003 was passed by the Tahsildar which was again challenged by the writ petitioner in appeal. In that appeal, records were called for and the petitioner was heard. Measurement of the building was also undertaken and it was found that the area is 3660.78 sq. metres. Accordingly, tax of Rs.3,15,900/- was imposed. Ext.P5 order was passed by the Revenue Divisional Officer in the appeal filed by the petitioner. It was found in Ext.P5 that there was expansion of the building and therefore, Section 5 (4) of the Kerala Building Tax Act, 1975 would apply. There is no dispute in the writ petition that there was expansion and additional construction. On the other hand, in para 1 of the writ petition it is admitted that the petitioner made some additional constructions.

(3). Learned Single Judge in the judgment impugned issued certain directions to both the parties to ensure that the tax is assessed properly and for the correct area. Interest of both sides have been safeguarded by the directions issued by the learned Judge. We do not find any infirmity in the order passed by the learned Judge. The writ appeal lacks merits and accordingly, it is dismissed. The direction to conduct measurement within 15 days from the date of order of the learned Judge is extended by another 15 days from today.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS